

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TUFAMERICA, INC.,

Plaintiff,

v.

MICHAEL DIAMOND, ADAM HOROVITZ,
and ADAM YAUCH, p/k/a BEASTIE BOYS,
UNIVERSAL MUSIC PUBLISHING, INC.,
UNIVERSAL MUSIC PUBLISHING GROUP,
BROOKLYN DUST MUSIC, and CAPITOL
RECORDS, LLC,

Defendants.
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Case No. 12 CV 3529 (AJN)

**DECLARATION OF
THEODORE C. MAX IN
SUPPORT OF DEFENDANTS'
MOTION TO DISMISS
PLAINTIFF'S AMENDED
COMPLAINT**

I, Theodore C. Max, do hereby declare, under penalty of perjury:

1. I am a partner of the law firm Sheppard Mullin Richter & Hampton, counsel for Defendants Michael Diamond, Adam Horovitz and Adam Yauch, p/k/a Beastie Boys, Brooklyn Dust and Capitol Records, LLC ("Defendants") in the above-referenced matter. I make this declaration in support of Defendants' Motion to Dismiss Plaintiff TufAmerica's Amended Complaint.

2. Attached as Exhibit A is a true and correct copy of Plaintiff's Complaint, filed with this Court on May 3, 2012.

3. Attached as Exhibit B is a true and correct copy of Plaintiff's Amended Complaint, which Plaintiff served on Defendants by electronic mail on December 6, 2012.

4. Attached as Exhibit C is a CD containing what I have been advised by Plaintiff's counsel are true and correct copies of Plaintiff's musical compositions and sound recordings at issue in this case.

5. Attached as Exhibit D is a CD containing true and correct copies of Defendant Beastie Boys' musical compositions and sound recordings at issue in this case.

I hereby declare under the penalty of perjury that the foregoing is true and correct.

Executed this 4th day of January, 2013.

Dated: New York, New York
January 4, 2013



Theodore C. Max (TM1742)